

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Expanding the Economic and Innovation	)	Docket No. 12-268
Opportunities of Spectrum Through Incentive	)	
Auctions	)	

**REPLY COMMENTS OF  
ABC TELEVISION AFFILIATES ASSOCIATION,  
CBS TELEVISION NETWORK AFFILIATES ASSOCIATION, AND  
NBC TELEVISION AFFILIATES**

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## Summary

From the perspective of the Affiliates Associations, the central messages derived from the voluminous opening comments filed in this proceeding can be summarized in three broad principles that should guide the Commission's rulemaking as it implements the Spectrum Act: (1) the Commission's implementing rules should strive to ensure that non-participating broadcast stations are not disadvantaged in any way by the repacking; (2) the extent of repacking should be minimal; and (3) the Commission should focus on producing a successful auction and repacking, not on beginning and concluding the process as quickly as possible.

1. The Spectrum Act contemplates a truly voluntary opportunity for willing broadcasters to relinquish their spectrum rights in exchange for payment, but it makes clear that broadcasters who choose not to participate should not be disadvantaged in any respect throughout the auction and repacking processes. The Commission can satisfy the Act's "hold harmless" mandate in four essential ways, all of which should guide its rulemaking efforts:

*First*, it is essential that the Commission strive for true *replication* of non-participating broadcasters' existing coverage areas after repacking, both to satisfy the statutory mandate and to avoid imposing disproportionate harm on those non-participating stations that happen to be affected by repacking—while their competitors (and their existing service areas) are not similarly impacted. Anything short of true replication risks serious harm to viewers, who will face a loss of existing local broadcast service from stations that target their needs and interests. Accordingly, the Affiliates Associations have urged the Commission to replicate a station's pre-repacking coverage area with no more than a 0.5% variance in the geographic area covered pre- and post-repacking.

*Second*, the Commission must strive to preserve local broadcast service to *the same*

*specific viewers* following repacking by adopting a modified version of the second of three options proposed in the *Notice* to govern post-repacking interference (subject to a 1.0% cap on aggregate interference). Absent such a rule, only those stations affected by the repacking, but not their competitors, would lose in-market viewers—a harm not ameliorated by providing for approximately the same *number* of viewers after repacking, because viewers are not fungible. Viewers themselves would suffer the loss of local programming provided by in-market stations if new interference is allowed to impact their ability to receive local broadcast signals.

*Third*, the Commission’s new band plan must be nationwide in scope, with a single guard band that does not vary from one geographical area to the next. Otherwise, both television stations and wireless providers will face significant risks of co-channel and adjacent channel interference in adjacent areas. For these reasons, the Affiliates Associations have endorsed the alternative version of the *Notice*’s “Down from Channel 51” band plan proposed by the National Association of Broadcasters (“NAB”), which addresses interference issues by providing for a single, nationwide guard band—a solution that is technologically simpler to implement, more efficient, and properly protective of both broadcast and wireless service providers. Television viewers and wireless consumers deserve no less.

*Fourth*, the Commission’s repacking plan must be consistent with the \$1.75 billion TV Broadcaster Relocation Fund provided by Congress. The Commission’s implementing rules must both adhere to that repacking “budget” and allow affected stations appropriate opportunities to seek full reimbursement for their reasonable repacking-related costs. The twin principles of equity and uniformity dictate rules that afford broadcasters the maximum possible flexibility in responding to repacking, constructing new facilities, and seeking reimbursement. To that end, the Affiliates Associations endorse the two-stage reimbursement proposal advanced by NAB.

The implementing rules also should provide stations that face unexpected delays beyond their control appropriate opportunities to seek the reimbursement contemplated by the Act.

2. Both the public interest and the statutory mandate to preserve and protect local broadcast television service dictate that the Commission minimize the extent of repacking. The greater the number of stations required to move during repacking, the greater the likelihood and extent of consumer confusion and disruption. Minimizing the extent of repacking will also curtail the potential for harm to the important broadcast services provided by low-power television and television translator stations. Finally, the enormous logistical and technological complexities inherent in the repacking process weigh in favor of limiting the extent of repacking to only that necessary to adhere to the statutory requirements of the Act.

3. Implementation of the Spectrum Act is the most technologically and logistically complex task the Commission has ever undertaken. Its success depends on the Commission approaching the rulemaking process in a careful and deliberative manner, allowing the time necessary to craft rules that serve the purposes of the Act, provide for a successful auction and repacking, and further the statutory mandate to preserve and protect local broadcast service. One of the most significant logistical hurdles the Commission faces in implementing the Act is the requirement of international coordination, which is almost certain to be a complex and time-consuming process. Both the Act itself and the practicalities of coordination demand that that process be concluded *before* the forward auction, not after the fact. The Commission should take the time to anticipate, analyze, and prepare appropriately flexible rules in response to the international coordination (and other technical, logistical, and operational) issues inherent in the repacking process rather than straining to get underway quickly. The success of the auction and repacking process depends upon it.

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The ABC Television Affiliates Association, CBS Television Network Affiliates Association, and NBC Television Affiliates (the “Affiliates Associations”)<sup>1</sup> submit these reply comments in response to the Notice of Proposed Rulemaking (“*Notice*”), released October 2, 2012,<sup>2</sup> seeking comment on the Commission’s implementation of Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (the “Spectrum Act” or “Act”).<sup>3</sup>

The voluminous comments filed in this proceeding range from those pointing out very specific technical matters, such as how the proposals set forth in the *Notice* may affect an individual television station, wireless microphones, or radio astronomy, to those discussing the

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<sup>1</sup> Each of the ABC Television Affiliates Association, CBS Television Network Affiliates Association, and NBC Television Affiliates is a non-profit trade association whose members consist of local television broadcast stations throughout the country that are affiliated with its respective broadcast television network.

<sup>2</sup> See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, FCC 12-118 (released Oct. 2, 2012) (“*Notice*”).

<sup>3</sup> See PUB. L. NO. 112-96, 125 Stat. 156 (2012).

overarching structure of the auctions and who can participate and under what conditions. From the Affiliates Associations' perspective, the central and most significant messages derived from the comments can be encapsulated in three broad principles that should guide the Commission in implementing the Spectrum Act: *First*, the Spectrum Act contemplates a truly voluntary auction process in which non-participating broadcast stations are held harmless and not disadvantaged in any way. *Second*, the Commission must minimize the extent of repacking. *Third*, and finally, implementation of the Spectrum Act is the most complex task the Commission has ever undertaken; its success depends on anticipating and addressing the many technological, logistical, and operational issues raised by this first-of-its-kind proceeding through careful and deliberative rulemaking.

**I. The Spectrum Act Contemplates Only a Voluntary Auction Process in Which Non-Participating Broadcast Stations Are Held Harmless and Not Disadvantaged in Any Way**

As the Affiliates Associations' opening comments pointed out,<sup>4</sup> both the Spectrum Act (particularly Section 6403(b)) and its legislative history reflect the congressional commitment to preserving and protecting local broadcast television service throughout the auction and repacking processes. To that end, the Act contemplates an entirely *voluntary* opportunity for willing broadcasters to relinquish their spectrum rights in exchange for payment, but it recognizes that non-participating broadcasters who remain committed to providing broadcast television service to their local communities should be held harmless throughout the auction and repacking

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<sup>4</sup> See Comments of ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates ("Affiliates Associations' Comments") at 6-7.

processes.<sup>5</sup> Broadcasters who choose not to participate in the voluntary auction must not be disadvantaged in any way by the auction and the repacking, and the Commission’s implementing rules should be designed to ensure that they are not.

The Commission can satisfy the congressional directives to preserve local broadcast service and to hold non-participating stations harmless from the costs and burdens of the auction and repacking in four essential ways, all of which should guide its rulemaking efforts.

### **1. It Is Essential That the Same Coverage Area of Non-Participating Stations Be Preserved**

For the reasons explained in the Affiliates Associations’ opening comments,<sup>6</sup> the statutory requirement to make “all reasonable efforts to preserve . . . *the* coverage area”<sup>7</sup>—emphasis on the definite article “the”—means the Commission should strive for true *replication* of each station’s existing coverage area.<sup>8</sup> A rule that merely attempts to preserve *a* or *some* coverage area that is equivalent in size to the station’s actual, existing coverage area shortchanges the statutory requirement, and it would have the potential to inflict serious harm on those non-participating stations that, through no choice of their own, are affected either by being repacked or through interference from repacked stations—while their competitors and their existing service areas remain unaffected. And viewers would lose twice: First, they risk a loss

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<sup>5</sup> See Affiliates Associations’ Comments at 20-21 & n.56.

<sup>6</sup> See Affiliates Associations’ Comments at 26-31.

<sup>7</sup> Spectrum Act § 6403(b)(2).

<sup>8</sup> See, e.g., *Shum v. Intel Corp.*, 629 F.3d 1360, 1367 (Fed. Cir. 2010) (reasoning that Congress’s use of the definite article “the” rather than the indefinite article “a” or “an” “is evidence that what follows . . . is specific and limited”) (citing cases).



of existing service (including essential local programming provided by repacked stations whose programming will no longer be available free and over the air), and, second, they lose when competition between stations and the innovation that results from it are weakened.

The danger of harm to non-participating stations (and their viewers) if true replication is not achieved is illustrated by stations whose coverage areas were diminished during the DTV transition. In a number of instances, stations were essentially forced to accept digital coverage areas that were smaller than their previous analog coverage areas, with an attendant loss of service to viewers within their own DMAs. For example, KCBS-TV, Los Angeles, previously operated on analog Channel 2, was assigned digital Channel 60, out of the core, and then had to be repacked to digital Channel 43. KCBS's digital coverage area on Channel 43 is substantially smaller than its prior analog coverage area. Substantial areas in San Bernardino, Kern, and Ventura Counties, and a smaller area in Riverside County, all within the Los Angeles DMA, lost over-the-air service from KCBS, CBS's flagship west coast station. It appears likely that KCBS will be forced to move again as a result of the spectrum auction and repacking processes.

Similarly, WBAL-TV, Baltimore, previously operated on analog Channel 11, was assigned digital Channel 59, out of the core, and subsequently its digital facility was repacked to Channel 11. WBAL's smaller digital coverage area resulted in a loss of service to tens of thousands of in-market viewers in Caroline and Talbot Counties, generating outcry from viewers complaining of poor or no reception. WBAL confirmed these and other reception issues with multiple field tests, including some tests in coordination with the FCC's field office. The station has since been able to regain some lost coverage area through negotiated interference agreements with other stations, allowing the station to increase its effective radiated power, but in a substantially tighter broadcast band following involuntary repacking as a result of the spectrum

auction, the likelihood for such negotiated agreements appears to be greatly diminished.

To avoid these sorts of harms to repacked stations and their viewers, the Spectrum Act must be interpreted to require, to the greatest extent feasible, genuine replication of existing coverage areas. To that end, the Affiliates Associations have posited that the repacking process should replicate a station's existing coverage area with no more than a 0.5% variance in the geographic area being covered pre- and post-repacking.<sup>9</sup> Such geographic exactitude is essential in this proceeding, where (unlike the DTV transition) only certain stations will be affected, while their competitors will face no disadvantageous changes to their coverage areas. The meaning and spirit of the Act—including its essential “hold harmless” mandate—requires true replication to avoid inflicting disproportionate harm on only *some* non-participating broadcasters.

## **2. It Is Essential That Service to the Same Viewers Be Preserved**

For the reasons explained in the Affiliates Associations' opening comments,<sup>10</sup> it is essential that local television service to *the same specific viewers* be preserved following repacking. That mandate is rooted in the statutory command that the Commission make “all reasonable efforts” to preserve both “*the* coverage area and population served” of television stations affected by repacking.<sup>11</sup> To that end, the Affiliates Associations' opening comments explained why only the second of the three alternatives proposed in the *Notice* to deal with population coverage during repacking, modified to incorporate a 1.0% aggregate cap on

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<sup>9</sup> Differences of less than 0.5% are equivalent to zero when rounded to an integer value.

<sup>10</sup> See Affiliates Associations' Comments at 32-38.

<sup>11</sup> Spectrum Act § 6403(b)(2) (emphasis added).

interference, actually comports with the statutory “preservation” requirement.<sup>12</sup>

Preservation of service to the same viewers that a station served pre-repacking is essential to the overarching “hold harmless” statutory mandate, because if service to the same specific viewers is not preserved, affected stations could be competitively disadvantaged by losing in-market viewers—a harm not ameliorated by providing for approximately the same *number* of viewers post-repacking.<sup>13</sup> As the opening comments of the National Association of Broadcasters (“NAB”) pointed out, viewers are not fungible.<sup>14</sup> And viewers themselves would suffer the loss of critical local programming provided by in-market stations if new, post-repacking interference is allowed to impede their ability to receive local broadcast signals. “The *sine qua non* of broadcasting is the integrity of a station’s signal. If that signal is not reliably interference free, viewers (and listeners) will turn away and the licensee’s effort to warn, to help, to inform and to

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<sup>12</sup> See *Notice* at ¶¶ 103-08. A number of other commenters likewise have voiced support for the second alternative (described in the *Notice* at ¶ 106), modified to incorporate a 1.0% aggregate cap on interference, as the only one of the options proposed by the Commission that can be implemented consistent with the statute’s “preservation” mandate. See, e.g., Comments of CBS Corporation, Fox Entertainment Group, Inc., NBCUniversal Media, LLC, The Walt Disney Company, and Univision Communications, Inc. (“Broadcast Network Comments”) at 6; Comments of Harris Corporation, Broadcast Communications Division at 9; Comments of Belo Corp. at 14-15.

<sup>13</sup> See *Notice* at ¶ 103 & Fig. 2. Many other commenters agree that preservation of service to the same viewers served prior to repacking is essential to satisfy the “hold harmless” mandate. See, e.g., Broadcast Network Comments at 6-7; Comments of LIN Television Corporation d/b/a LIN Media at 5; Comments of the Association of Public Television Stations, Corporation for Public Broadcasting, and Public Broadcasting Service at 9-10; Comments of Univision Communications, Inc. at 5 (a rule that fails to preserve service to the same “population served” by a station pre-repacking “would be detrimental to the Hispanic community and other minority viewers in particular”).

<sup>14</sup> See Comments of NAB at 24.

entertain will be wasted.”<sup>15</sup>

As explained in the Affiliates Associations’ opening comments,<sup>16</sup> because the second alternative calculates interference on a station-to-station basis only, the implementing rules also should impose an aggregate cap on such replacement interference. The Affiliates Associations endorse NAB’s recommendation that the Commission adopt a 1.0% aggregate cap on replacement interference. As the Broadcast Networks explained, “[i]f one instance of 0.5% interference could be piled on top of another *ad infinitum*, the aggregate new interference could literally obliterate large portions of a station’s signal—a result manifestly at odds with the Spectrum Act.” But if an aggregate cap of 1.0% on new interference is imposed, “a station repacked as a result of the Spectrum Act generally would be assured of having the same interference exposure post-auction as it has today, subject to a narrow exception permitting the imposition of up to 0.5% new interference in no more than two distinct areas.”<sup>17</sup>

Examples from the DTV transition again illustrate the potential harm if the Commission’s implementing rules do not provide for preservation of service to the same specific viewers. In many cases during the digital transition, stations lost substantial numbers of in-market viewers. Even when they gained viewers overall as a result of the transition, the viewers gained were predominantly out-of-market and thus did not mitigate either the economic harm to the station resulting from the loss of in-market viewers or the harm to viewers who lost access to local programming provided by in-market stations. For example, KWQC-TV, Davenport, Iowa,

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<sup>15</sup> Joint Comments of the Named State Broadcasters Associations at 14-15.

<sup>16</sup> Affiliates Associations’ Comments at 37.

<sup>17</sup> Broadcast Network Comments at 6-7. *See also* Comments of NAB at 20-21.

previously operated on analog Channel 6, was assigned digital Channel 56, out of the core, and subsequently ended up on digital Channel 36. KWQC had to move its transmitter tower substantially to the south, shifting its coverage area with it. As a result, KWQC lost all virtually all over-the-air service to Jo Daviess County, a county that was, and still is, within the station's Davenport-Rock Island-Moline DMA. KWQC also lost the ability to serve approximately half of Jackson County and about 30 percent of Carroll County, also both within its DMA. While KWQC saw a net gain in the number of viewers capable of receiving the station over the air, the vast majority of that gain occurred in the neighboring DMAs of Peoria-Bloomington and Quincy-Hannibal-Keokuk.

Similarly, WESH(TV), Daytona Beach, Florida, previously operated on analog Channel 2 and was assigned digital Channel 11 on which it operates. WESH also moved its transmitter tower, to the southeast, thereby shifting its coverage area. Consequently, WESH lost over-the-air service to half of Marion County, which is part of the station's Orlando-Daytona Beach-Melbourne DMA, affecting approximately 100,000 viewers. WESH also lost the ability to serve most of Putnam County and most of Citrus County, approximately one-third of Alachua County, and a portion of Levy County, all areas in which the station was significantly viewed. While WESH did see some gains in Brevard and Osceola Counties, which are part of its DMA, most of its gains occurred in Indian River and Polk Counties, which are part of the West Palm Beach-Ft. Pierce and Tampa-St. Petersburg DMAs, respectively, and which are counties in which WESH is not significantly viewed.

In every case, stations that lost in-market viewers in the digital transition risked being competitively disadvantaged, and in-market viewers lost service from stations providing essential local programming, contrary to the public interest. Those harms can and should be

avoided in the spectrum repacking process by implementing rules that ensure, to the greatest extent feasible, that service to the same specific viewers is preserved.

**3. The New Band Plan Must Be National in Scope, Not Geographically Variable, for Otherwise Broadcast Stations and Wireless Carriers Will Interfere with One Another, to the Detriment of Both Services and to the Public**

As the Affiliates Associations’ opening comments explained, potential interference issues will be addressed principally through appropriately-sized guard bands, but that solution to interference will be effective only if guard bands occupy the same frequencies nationwide. If guard bands differ from one geographical area to the next, adjacent geographical areas could have different services operating on the same or adjacent frequencies—an invitation for co-channel and adjacent-channel interference.<sup>18</sup> Television stations would face interference from wireless operations, while wireless providers would be faced with high power television transmitters masking reception of low-level signals from wireless devices. The creation of large protection zones is not an effective answer to those concerns, as both the Affiliates Associations and NAB have pointed out. In order for protection zones to guard against interference, the zones would have to be so large, and the separation distances so great, that the supposed spectral efficiency of a geographically variable plan would be seriously compromised.<sup>19</sup>

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<sup>18</sup> See Affiliates Associations’ Comments at 45. See also Broadcast Network Comments at 9 (“any band plan that intersperses broadcast television stations and wireless licensees among multiple, bifurcated spectrum blocks is destined to create deleterious engineering consequences that would undermine consumers’ ability to enjoy both broadcasting and mobile wireless products”).

<sup>19</sup> NAB’s opening comments estimated the necessary separation distances to range from 225 km to 375 km. See Comments of NAB at 43.

The lack of a uniform, nationwide guard band between the lower 700 MHz wireless spectrum and the Channel 51 TV spectrum serves as an apt cautionary tale. While the Commission affirmatively decided not to create a guard band between Channel 51 and the lower 700 MHz block<sup>20</sup> despite their disparate uses for television broadcast and wireless service, arguments by wireless licensees in 2011 regarding interference and the potential for interference between adjacent channels 51 and 52 resonated with the Commission, which recognized the real and serious concerns being raised. As a result, the Commission imposed a freeze in 2011 on most Channel 51 licensing activity.<sup>21</sup>

Notably, there are currently fewer than three dozen full-power and Class A television stations licensed for operation on Channel 51, which means that less than one-fifth of the 210 television markets have a station operating on Channel 51. In many areas of the country, then, there was essentially a de facto guard band between the lower 700 MHz band and any operating full-power or Class A television station, and wireless licensees in those markets faced little or no risk of interference from a Channel 51 station. Notwithstanding that situation—which obviously varied geographically—wireless licensees believed the risk of interference to be too high on the whole and prevailed upon the Commission to freeze Channel 51 broadcast applications and

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<sup>20</sup> See *Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*, Notice of Proposed Rulemaking, 16 FCC Rcd 7278 (2001), ¶ 16 (seeking comment on interference protection for Channel 51 television operations); *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18279 (2004), ¶ 124 (unequivocally adopting interference protection for Channel 51 television operations by Channel 52 wireless licensees and expressly rejecting calls for reciprocal interference protection by Channel 51 television licensees to Channel 52 wireless licensees).

<sup>21</sup> See *General Freeze on the Filing and Processing of Applications for Channel 51 Effective Immediately*, Public Notice, 26 FCC Rcd 11409 (Aug. 11, 2011).

consider modifying the rules relating to Channel 51 television operations.<sup>22</sup> In support of their request, various wireless licensees asserted that the potential for interference on adjacent channels between the two services was harmful. For example, one carrier observed that the adjacency of television Channel 51 “has a direct negative effect on the deployment of wireless broadband services.”<sup>23</sup> The Rural Cellular Association similarly posited that “interference from Channel 51 operators—along with the constraints of having to accommodate the interference those same operators emit—leads to an untenable situation for wireless carriers that require a stable spectrum environment in order to efficiently plan and deploy their mobile broadband networks.”<sup>24</sup> Assuming those statements to be true, the same point would be true in spades in an environment with geographically variable channel assignments, where adjoining markets may have different guard bands and/or different services operating on the same or adjacent channels. Indeed, the potential under a geographically variable band plan for harmful interference between *co-channel* services in adjacent markets would obviously be substantially greater than that which is possible—and feared—for adjacent-channel services.

The Commission’s experience with co-channel and adjacent channel interference between television stations and public safety services in geographically distant regions as a result

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<sup>22</sup> In the instant proceeding, some wireless licensees have renewed the call for the Commission to address the Channel 51 situation because “700 MHz licensees in the Lower A Block continue to encounter significant technical challenges to deploying wireless broadband services in this spectrum” as a result of “potential harmful interference to off-air broadcast reception.” Comments of United States Cellular Corporation at 59.

<sup>23</sup> Reply Comments of United States Cellular Corporation at 7, RM-11626 (filed May 12, 2011).

<sup>24</sup> Reply Comments of Rural Cellular Association at 3, RM-11626 (filed May 12, 2011).



of the tropospheric ducting phenomenon also weighs against implementing a geographically variable band plan. In such situations, a television station operating on a particular channel might have its signal picked up by public safety radios operating on the same or an adjacent channel hundreds of miles away.<sup>25</sup> It is plausible that the same phenomenon could wreak havoc on wireless and television co- and adjacent-channel licensees under a variable band plan in which a wireless licensee in a near or distant market might experience signal disruptions from a television station's operations. A nationwide, uniform band plan with appropriate guard bands would mitigate that risk.

For these reasons, the Affiliates Associations have endorsed NAB's nationwide version of the *Notice's* "Down from Channel 51" alternative band plan.<sup>26</sup> Under that plan, interference issues are addressed by providing for *one* appropriately-sized, nationwide guard band. A plan that incorporates a single, geographically uniform guard band protects against interference and minimizes technological challenges for television and wireless service providers while allowing space for the operation of unlicensed devices and wireless microphones. NAB's nationwide

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<sup>25</sup> See, e.g., *County of Ocean, New Jersey, Request for Waiver of Sections 90.303, 90.305, 90.307, 90.309, and 90.311 of the Commission's Rules*, Order, 24 FCC Rcd 11299 (2009) (granting public safety licensee waiver of certain rules to mitigate effects of atmospheric ducting whereby distant co-channel and adjacent channel television stations signals were being picked up on public safety radios).

<sup>26</sup> See Affiliates Associations' Comments at 43-46. Other commenters likewise endorse NAB's proposal. See, e.g., Joint Comments of the Named State Broadcasters' Associations at 14-15; Comments of Belo Corp. at 18; see also Comments of Harris Corporation, Broadcast Communications Division at 25-26 (endorsing a "uniform 600 MHz band plan in all markets").

This band plan structure is also supported by AT&T, Intel, Qualcomm, T-Mobile, and Verizon Wireless. See Letter to Gary Epstein and Ruth Milkman, FCC, from AT&T, Inc., Intel Corporation, National Association of Broadcasters, Qualcomm, T-Mobile, and Verizon Wireless, GN Docket No. 12-268 (Jan. 24, 2013).

single-guard-ban proposal is technologically simpler to implement, more efficient, and protective of both broadcast television service and wireless providers. Consequently, television viewers and wireless consumers will be substantially better off with a uniform national band plan.

**4. The Fact That the Relocation Fund Is Limited to \$1.75 Billion Acts As a Hard, Statutory Constraint on the Number of Television Stations That Can Be Affected by Repacking**

It is essential that the Commission's rulemaking respect the \$1.75 billion budget established by Congress for the TV Broadcaster Relocation Fund ("Fund").<sup>27</sup> As the Affiliates Associations' opening comments explained,<sup>28</sup> the statutory relocation budget constrains the number of television stations that can be repacked—in fact, it limits the number of stations that can be *affected* by repacking so as to warrant reimbursement. The limitations imposed on the allowable extent of repacking arise from (1) the statutory requirement that broadcast stations reassigned as the result of the repacking be reimbursed for their reasonably incurred costs<sup>29</sup> and (2) the statutory allocation of \$1.75 billion of the proceeds from the forward auction to reimburse those relocation costs (as well as certain relocation costs incurred by MVPDs).<sup>30</sup> Because Congress set aside a fixed amount that it anticipated would be adequate to cover all reasonable costs incurred by broadcasters who remain on the air after the conclusion of the auction process,

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<sup>27</sup> See Spectrum Act § 6402 (amending 47 U.S.C. § 309(j)(8)(G)(iii)(I)); *id.* § 6403(d)(2).

<sup>28</sup> See Affiliates Associations' Comments at 46-48.

<sup>29</sup> See Spectrum Act § 6403(b)(4)(A).

<sup>30</sup> See Spectrum Act § 6402 (amending 47 U.S.C. § 309(j)(8)(G)(iii)(I)); *id.* § 6403(d)(2).

the \$1.75 billion Fund effectively serves as a “budget” for repacking.<sup>31</sup> The Commission’s repacking model must be guided by and consistent with that budget.

The Affiliates Associations’ opening comments noted (and included data supporting) estimates for the costs of repacking ranging as high as \$4 million or more for a major change facility in a medium-sized market.<sup>32</sup> Factoring those costs into the repacking equation, the Commission likely will be unable to relocate more than 400 to 500 stations within the constraints imposed by the statutory relocation “budget.” An attempt to relocate more stations likely would exceed the amount of the Fund, contrary to Congress’s intent that the Fund would fully reimburse broadcasters affected by the repacking (as well as certain MVPD costs).

Within the constraints of that budget, the Commission should adopt implementing rules that further the statutory “hold harmless” mandate by ensuring that affected stations have appropriate opportunities to seek reimbursement from the Fund for the costs and burdens they incur as a result of being involuntarily repacked. Unlike the DTV transition, when stations had more than a decade to carefully plan for the transition and voluntarily choose their new channels and when all stations were impacted by the transition, the post-auction repacking promises to feature accelerated urgency, no choice of new allotments, a ceiling of “the best available channel,” and disproportionate impacts on those stations affected (essentially through happenstance) by the repacking process. Under those circumstances, the twin guiding principles

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<sup>31</sup> Other commenters agree. *See, e.g.*, Comments of Belo Corp. at 19 (“As the NAB submits, given Congress’s mandate that remaining broadcasters be made whole, the Commission should treat the \$1.75 billion as a budget, with a realistic understanding of how many broadcasters it can repack within those constraints.”); Comments of Sinclair Broadcast Group, Inc. at 14-15.

<sup>32</sup> *See* Affiliates Associations Comments at 47 & Appendix A.

for the Commission in fulfilling its statutory mandate to “make whole” non-participating stations should be equity and uniformity.

To further the “hold harmless” mandate and to ensure equity and uniformity, the Commission should adopt rules that afford broadcasters affected by the repacking process the maximum possible flexibility in responding to repacking and seeking the reimbursement provided for by the Act. As the Affiliates Associations’ opening comments explained,<sup>33</sup> the Commission should work to ensure that repacked stations have as much time as possible to construct their new facilities while still qualifying for reimbursement from the Fund. To that end, the Commission should deem the forward auction closed only at or after the time at which involuntarily repacked stations actually file applications for construction permits to change channels. On a related note, it would be reasonable to expect that it will take the Commission—or, preferably, its outside designated agent<sup>34</sup>—as much as six months to process reimbursement request paperwork. As such, the timeline for station construction should account for that six-month period, and the Commission should plan to allow, in the majority of cases, 30 months of time following the “close” of the forward auction for repacked station construction. For stations that experience delays due to unforeseen or uncontrollable circumstances (such as local zoning issues, international coordination, litigation, and force majeure events), the Commission should make appropriate dispensation so that those stations, like their competitors, have sufficient time to construct their facilities and receive reimbursement from the Fund.

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<sup>33</sup> *See* Affiliates Associations’ Comments at 48.

<sup>34</sup> The Affiliates Associations have urged the Commission to delegate administration and oversight of the Fund to an outside third-party. *See* Affiliates Associations’ Comments at 49.

Likewise, in furtherance of the principle that the Spectrum Act should cause no harm to broadcasters and that the Commission's implementing rules should be guided by principles of equity and uniformity, the Affiliates Associations agree with the reimbursement proposal advanced by NAB. According to NAB's proposal, the Commission should adopt a two-stage reimbursement process that combines the best of both proposals set forth in the *Notice*, fosters equitable treatment, and promises to provide timely and evenhanded reimbursement to stations affected by the repacking.<sup>35</sup> The two stages are (1) advance payments based on estimated expenses, and (2) true-up payments following actual expenditures.

#### Stage 1: Advance Payment Based on Estimated Expenses

In order to ensure that all entities (both stations and MVPDs) with eligible expenses receive their respective maximum pro rata shares of reimbursement from the Fund, it is critically important that some uniform percentage of estimated relocation expenses be disbursed early in the relocation process.<sup>36</sup> A natural point for this stage of the process is when stations file applications for construction permits to change channels. Contemporaneous with filing for a new CP, stations would also file a request for advance partial payment of their anticipated

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<sup>35</sup> See Comments of NAB at 53-55.

<sup>36</sup> The Affiliates Associations are concerned by the Commission's suggestion that the Spectrum Act restricts *disbursement* of Fund monies to the period following completion of the forward auction. See *Notice* at ¶ 335. In fact, the Spectrum Act only limits the point at which the Commission may borrow money from Treasury for use in reimbursing stations affected by repacking. See Spectrum Act § 6403(d)(3)(A). If forward auction participants were required to make mandatory down payments, such monies could be deposited into the Fund and made available by the Commission immediately to broadcasters with eligible reimbursement expenses.

relocation expenses.<sup>37</sup> The Affiliates Associations also agree with NAB that advance reimbursement payments logically must be something less than 100 percent of each station's estimated expenses and endorse NAB's proposed ceiling of 80 percent of estimated expenses.

The advantages of NAB's proposed two-step reimbursement process are obvious. Perhaps most significantly, providing for advance payment based on estimated expenses is equitable. All entities eligible for reimbursement would receive at least *some* Fund monies—and in roughly equal proportions of anticipated need. Moreover, “early adopters” would not disproportionately benefit at the expense of others, and early payments would provide assistance to all relocated (and other affected) stations at the point at which they need it most: to defray initial capital outlays.<sup>38</sup> Finally, use of an expense list such as the one submitted with the Affiliates Associations' opening comments will help to guard against waste, fraud, and abuse of the Fund.

#### Stage 2: True-Up Payment

The true-up stage of relocation expense reimbursement is the natural partner of the advance payment stage. Affected stations (and MVPDs) will submit true-up requests approximately 30 months after the Commission declares the forward auction complete. At the same time, any station or MVPD whose advance payment exceeded its actual costs would be

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<sup>37</sup> The Affiliates Associations have submitted a list of various equipment, services, and related expenses that they urge the Commission to consider reasonable and illustrative in connection with the anticipated or estimated expenses of relocation. *See* Affiliates Associations' Comments, Appendix A.

<sup>38</sup> *See also* Comments of Tribune Company at 16 (supporting NAB's two-step reimbursement proposal as allowing broadcasters to “relocate or modify facilities as quickly as possible without concern for whether they can secure the necessary capital to effectuate the repack”).

required to return the unused portion. Because reimbursement from the Fund is statutorily constrained to occur no later than three years after the end of the forward auction, the Affiliates Associations submit that the 30-month deadline would appropriately—albeit not perfectly—balance real-world construction vagaries that affected stations are likely to face with real-world accounting needs of the agency, and the 6-month window would give the Commission (or its designated agent) time to work through the reimbursement requests and disburse monies prior to the statutory deadline.<sup>39</sup>

Finally, as the Affiliates Associations’ opening comments pointed out, stations’ experiences in the DTV transition suggest that some stations can expect to face delays arising from a variety of circumstances beyond their control during the repacking and construction of new facilities.<sup>40</sup> Appropriate accommodations must be made to ensure that stations facing unexpected delays are able to construct their new facilities and receive the reimbursement

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<sup>39</sup> Other commenters similarly recognize the necessity of providing an adequate period of time for broadcasters to complete construction of new facilities following the conclusion of the auctions. *See, e.g.*, Comments of Belo Corp. at 6-7 (the Commission’s transition plan “must afford broadcasters sufficient time to transition, be flexible enough to allow broadcasters to react to unforeseen circumstances, and include streamlined procedures to allow broadcasters to operate with temporary facilities so that they are not forced to cease serving their viewers during repacking”); Comments of the School Board of Broward County, Florida at 2 (“With antenna manufacturers and tower crews likely to be in short supply, the [C]ommission should extend the construction period for [non-commercial educational] licensees to 30 months.”); *cf.* Comments of Univision Communications, Inc. at 17-18 (“Providing stations a longer period of time [than 18 months] to complete construction of their new facilities also will help account for unpredictable events that could cause delays. For example, a hurricane or forest fire or, at higher elevations, even normal winter weather, could make it difficult for facilities to be completed in just 18 months. In addition, this first-of-its-kind incentive auction and repacking process introduces a number of new variables that could raise unique challenges. For example, stations that enter into channel sharing arrangements may require additional time to coordinate and complete the transition.”).

<sup>40</sup> *See* Affiliates Associations’ Comments at 49.

contemplated by the Spectrum Act. Because the Act limits reimbursements to a three-year period following the completion of the forward auction, the Affiliates Associations suggest that stations facing unavoidable delays be permitted to submit documentation of actual expenditures, along with adequately documented expenses expected to be incurred going forward (such as purchase orders), at the same time as other stations submit true-up documentation.

\* \* \*

In all respects, the Commission’s rulemaking must be mindful that the repacking process and the amount of spectrum that can be repurposed are constrained by the congressionally authorized process set forth in the Spectrum Act. The Commission’s repacking authority is limited and defined by the statutory commands that the Commission must “make all reasonable efforts” to preserve both “the coverage area and population served” of those broadcasters who elect not to participate in the voluntary spectrum auction and that affected stations (and MVPDs) must be reimbursed for all “costs reasonably incurred.” An auction and repacking process that simply tries to cram remaining broadcasters into insufficient spectrum following the auctions, or one that does not provide for genuine replication of coverage area following repacking and preservation of service to the same viewers served prior to repacking, or one that does not incorporate sufficient protections to ensure full reimbursement of eligible expenses by affected broadcasters on an evenhanded basis, cannot be said to reflect “all reasonable efforts” to satisfy the statutory mandates. The Commission’s implementing rules must respect the congressional “hold harmless” mandate that is a linchpin of the Act.

## **II. The Commission Must Minimize the Extent of Repacking**

Although the Affiliates Associations do not dispute that repacking is a necessary and appropriate part of the process envisioned by the Spectrum Act, repacking should be viewed as a



limited means to reorganize a new core TV band and repurpose certain spectrum for wireless broadband use based on the results of the reverse auction. It cannot and should not be used as a means to shrink television broadcast service and thereby recover additional spectrum involuntarily. Such an outcome would be at odds with the language and purpose of the Spectrum Act, which authorizes the Commission only to make “appropriate” reassignment of television channels and reallocate spectrum that becomes “available for reallocation” as a result of the auction process outlined in the Act<sup>41</sup> and which reflects an overarching congressional commitment to the preservation and protection of local broadcast television service throughout and after repacking. The Commission’s implementing rules must respect those limitations on its auction and repacking authority.

Minimizing the extent of repacking is both consistent with the language and purpose of the Act and decidedly in the public interest. The auction process itself will necessarily result in a diminution in television broadcast service, as some stations will exit broadcasting and return their licenses. The greater the number of remaining stations that are required to move during the repacking, the greater the number of television viewers that will face confusion and disruption of their television service. Rules that ensure that the extent of repacking is as minimal as possible would be consistent with the statutory directive to preserve and protect the important local broadcast service provided by non-participating broadcasters, and they would be appropriately mindful of the impact the repacking process is certain to have on viewers.<sup>42</sup>

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<sup>41</sup> See Spectrum Act § 6403(b).

<sup>42</sup> See also Broadcast Network Comments at 5 (“[B]ecause the Spectrum Act contemplates that broadcasters who do not relinquish spectrum will suffer only minimal impact from the auction, the Broadcast Networks believe that the Commission should focus on  
(continued . . .)

The Commission will also face many difficult situations where stations are already tightly packed in today's broadcast core, let alone a reduced core following the reverse auction and repacking. Consider, for example, the Greenville-Spartanburg-Asheville-Anderson DMA (the "Greenville-Spartanburg DMA"), which comprises the northwest portion of South Carolina, the Appalachian and Smoky Mountains of North Carolina, and four counties in northeast Georgia. While a top 50 market (indeed, it is ranked 37 by Nielsen), it is unlikely to be one with a substantial need for wireless broadband spectrum.

The Greenville-Spartanburg DMA is surrounded by seven other television markets: Atlanta (DMA 9), Charlotte (DMA 25), Knoxville (DMA 61), Columbia (DMA 77), Chattanooga (DMA 87), Tri-Cities, TN-VA (DMA 96), and Augusta-Aiken (DMA 113). In these seven surrounding markets, there are 51 UHF full-power television stations, and 30 of those operate in the upper half of the UHF band (above channel 31).<sup>43</sup> In the Greenville-Spartanburg DMA itself, there are nine UHF full-power television stations, and three of those operate in the upper half of the UHF band (above channel 31). All told, in these eight markets, there are 60 UHF stations operating on 37 channels today. Unless substantial numbers of stations in these eight markets voluntarily relinquish their licenses in the reverse auction, there will be little room to repack anyone in the Greenville-Spartanburg DMA, and perhaps the other markets as well.

Station WYFF(TV), the NBC affiliate in Greenville, South Carolina, previously operated

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minimizing the number of broadcast stations that will need to be repacked. This would not only diminish the likelihood of consumer disruption, it also would provide the greatest protection for those stations not planning to participate in the auction.”).

<sup>43</sup> This analysis considers only full-power television stations, not Class A television stations, although, of course, Class A television stations must also be protected.

on analog Channel 4 and was assigned pre-transition digital Channel 59, out of the core. Clearly the station had to be repacked to an in-core channel, and its search for a suitable channel revealed there was *only one channel* available for full-power operations from channels 7-51, and that was Channel 36, where it operates today. WYFF spent eight years and \$5.6 million to create its facility on Channel 36, which still resulted in a smaller coverage area than its prior analog channel. WYCW(TV), the CW affiliate licensed to Asheville, North Carolina, operates on Channel 45. Where can stations such as WYFF and WYCW go when the spectrum is already congested in and around their home market? The Commission must recognize upfront that the repacking not only should be, consistent with the spectrum law, but will have to be, consistent with the laws of physics, minimal in many areas throughout the country.

The Commission also must recognize that the Spectrum Act was never intended to authorize the Commission to repurpose more spectrum than is recovered through the incentive auction process. For example, in the Glendive DMA there is only a single full-power television station, KXGN-TV, a CBS and NBC affiliate, which broadcasts on Channel 5, and no Class A television stations, but no demand for wireless broadband spectrum exists. The Spectrum Act does not allow the Commission to simply repurpose all 37 channels of UHF television spectrum (222 MHz) in that market for wireless broadband use.

If the Commission attempts to maximize rather than minimize repacking, viewers who rely on low-power television and television translator stations (collectively, “LPTV”) for broadcast television service will be particularly impacted. The greater the extent of repacking, the greater the risk that existing LPTV service will be significantly harmed if not destroyed altogether as a result of interference from repacked full power and Class A stations. Likewise, after repacking, the options for over-the-air LPTV operations will be limited in the substantially

tighter broadcast band resulting from repacking. As the Affiliates Associations' opening comments noted,<sup>44</sup> LPTV stations provide important television broadcast services, including network programming and local news, to large numbers of viewers, particularly those in smaller markets or more rural areas. If that source of local broadcasting were lost or even lessened, viewers would pay a high price. What's more, the decimation of LPTV service would be a major blow to an important source of ownership diversity. The Commission can minimize the risk of these significant harms by minimizing the extent of repacking to that necessary to accomplish the purposes of the Act.

Many stations, of course, also rely on translators to provide service to the public within their DMA. An example from the Greenville-Spartanburg DMA, discussed above with respect to the "tightness" of existing broadcast spectrum in that market, is particularly relevant here. Station WYFF, mentioned above, utilizes 11 translators to serve viewers in western North Carolina, which represents a substantial portion of the Greenville-Spartanburg DMA. All 11 translators are physically located within the nominal noise-limited contour of WYFF but are necessary to provide fill-in service due to the mountainous terrain of the Appalachian Mountains and Great Smoky Mountains in that portion of the market. Without its translator system, WYFF would be unable to provide over-the-air service to more than 137,000 people in this terrain-challenged area. In addition, one of WYFF's translators, W10AL, provides service to more than 7000 people in and around Cherokee, North Carolina, including to the tribal lands of the Cherokee. If deliberative consideration is not given to minimize repacking, to preserve and protect existing coverage areas and population served of full-power and Class A stations, and to

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<sup>44</sup> See Affiliates Associations' Comments at 55.

attempt to preserve the valuable service provided by many LPTV stations, many millions of viewers across the country, including many minority and ethnic viewers, will lose television service.

Finally, the enormous logistical and technological complexities of repacking likewise weigh in favor of minimal repacking. The individual broadcast station experiences with the DTV transition recounted in the Affiliates Associations' opening comments reinforce the significant complexities that will be associated with repacking.<sup>45</sup> The lessons learned in the DTV transition process should guide the Commission's rulemaking in this proceeding: The Commission should not needlessly exacerbate the difficulties and challenges inherent in the implementation of the Spectrum Act by undertaking repacking beyond that minimally necessary to further the aims of the statute. Minimizing the extent of repacking also would maximize the amount remaining in the Fund at the conclusion of the process that would be available to be transferred to the Public Safety Trust Fund—again, an outcome decidedly in the public interest.<sup>46</sup>

### **III. Implementation of the Spectrum Act, the Most Complex Task the Commission Has Ever Undertaken, Will Be Successful Only If the Commission Proceeds in a Deliberative and Thoughtful Manner**

Because implementation of the Spectrum Act is undoubtedly the most technologically and logistically complex task the Commission has ever undertaken, the Commission's apparent desire to get underway with the auction and repacking processes quickly is puzzling<sup>47</sup>—

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<sup>45</sup> See Affiliates Associations' Comments at 12-18, 49, 51, 57-58.

<sup>46</sup> See Spectrum Act § 6402.

<sup>47</sup> The *Notice* indicates, for instance, that the Commission anticipates conducting the auction in 2014. See *Notice* at ¶ 10.

particularly when Congress, recognizing the complexity of the task facing the Commission, has allowed more than ten years to complete the auction process.<sup>48</sup> The Affiliates Associations agree that the auctions and repacking should be conducted as expeditiously and efficiently as reasonably possible. But haste to begin and conclude the process should not prompt the Commission to rush the creation of implementing rules that both serve the purposes of the Act and further the statutory mandate to preserve local broadcast television service. As Gordon Smith of NAB has said, the success of the exceedingly complex auction and repacking processes depends on getting things done “right,” not merely on getting things done “right now.”

As the Affiliates Associations’ opening comments suggested, the Commission should approach its rulemaking efforts with care and deliberation to ensure (1) that both forward and reverse auctions can be conducted successfully and in keeping with the mechanisms and limitations set forth in the Act, (2) that the repacking process does not deprive viewers of critical local broadcast service, and (3) that non-participating broadcasters are protected against the costs and burdens that will inevitably result from the repacking process.<sup>49</sup> “Preserving the essential services that broadcasters provide is worth taking the time to get the repack right.”<sup>50</sup> The Commission has, and should make full use of, the opportunity to deliberate thoughtfully.<sup>51</sup>

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<sup>48</sup> See Spectrum Act § 6403(f)(3).

<sup>49</sup> See Affiliates Associations’ Comments at 8-11 (summarizing recent marketplace developments suggesting that the market is responding to short-term demands for spectrum, so that the Commission need not rush the implementation of the Act).

<sup>50</sup> Comments of Tribune Company at 26.

<sup>51</sup> See also Comments of Sinclair Broadcasting Group, Inc. at 4 (“New auction formats are tricky beasts, and in the absence of a compelling rationale for doing otherwise, the FCC should take the time to get it right. And there is no compelling rationale to rush into the most  
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One of the most significant logistical hurdles the Commission faces in implementing the Act is the statutory requirement of international coordination. International coordination will be critical to the success of the auction and repacking processes, but the technical considerations and other issues arising from the coordination requirement are complex and significant.<sup>52</sup> Both the language of the Act<sup>53</sup> and the practicalities of international coordination demand that that complex process be completed *prior to* the forward auction, not after the fact.<sup>54</sup> “If the Commission adopts rules before completing coordination, broadcasters could be subject to relocating to a new channel encumbered by a lengthy and uncertain international process,” an outcome that “would be highly disruptive to millions of consumers.”<sup>55</sup> Indeed, resolution of international coordination issues at the outset of the process is critical to the success of the auctions:

Successful [international] coordinations, along with all required approvals, should be conditions precedent to the adoption of any final order in this proceeding and before the commencement of any auctions thereunder. . . . [N]o licensee which may be subject to repacking should have to wait possibly years to determine precisely how it may be impacted by repacking.<sup>56</sup>

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complex spectrum auctions in history and the most complex reallocation the FCC has ever attempted.”).

<sup>52</sup> See Affiliates Associations’ Comments at 11-19.

<sup>53</sup> See Spectrum Act § 6403(b)(1)(b).

<sup>54</sup> See Affiliates Associations’ Comments at 12; Comments of NAB at 17.

<sup>55</sup> Broadcast Network Comments at 7. See also Comments of Belo Corp. at 11-13; Joint Comments of Eagle Creek Broadcasting of Laredo, LLC, Journal Broadcast Corporation, Mountain Licensees, L.P, and Stainless Broadcasting, L.P. at 3 (“the FCC must allow sufficient time for the advance/planning coordination process to run its course”).

<sup>56</sup> Joint Comments of the Named State Broadcasters Associations at 10.

The complex process of international coordination will require patience and deliberation on the Commission's part rather than haste to get the auction process underway, because proper international coordination in anticipation of repacking is almost certain to require a significant investment of time. The process of coordinating changes to the DTV Table of Allotments with Canada and Mexico is likely to require several months at the least, and quite possibly far longer,<sup>57</sup> and station experiences during the DTV transition suggest that international coordination is likely to delay construction of new facilities and demand flexibility in the Commission's response.<sup>58</sup>

For the reasons explained by a number of commenters, meaningful resolution of international coordination issues prior to repacking is critical but is almost certain to push the Commission past its stated goal of conducting the auction in 2014. The Commission should take the time to anticipate, analyze, and prepare appropriately flexible rules in response to the international coordination issues inherent in the repacking process rather than straining to conduct the reverse and forward auction quickly. The Act requires nothing less, and the success of the auction and repacking processes depends upon it.<sup>59</sup>

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<sup>57</sup> See Comments of NAB at 13.

<sup>58</sup> See Affiliates Associations' Comments at 14-16 (recounting the Commission's flexible approach to delays in completing the digital transition caused by international coordination issues given the Commission's recognition that "stations facing international coordination issues face unique challenges") (quoting *Advanced Television Systems and Their Impact Upon the Existing Television Service*, Seventh Report and Order and Eighth Further Notice of Proposed Rulemaking, 22 FCC Rcd 15581, at ¶ 60 (2007)).

<sup>59</sup> The NAB made the same point in a March 7, 2013, letter to the Incentive Auction Task Force Chair and others, in which it offered a "five-point proposal for international coordination that [NAB] believe[s] will help reduce the cross-border challenges that stand in the way of a  
(continued . . .)



## Conclusion

The implementation of the auction and repacking processes outlined in the Spectrum Act promises to be the most complex task the Commission has ever undertaken. The Affiliates Associations support the Commission's efforts to create a successful auction and repacking and to anticipate and address the many technological, logistical, and operational issues raised by this first-of-its-kind proceeding. The Affiliates Associations believe that those ends can be achieved through a careful and deliberative rulemaking, one designed to serve the twin statutory objectives of freeing up additional spectrum for wireless broadband and preserving and protecting valuable local broadcast television service.

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truly successful auction.” See Letter from Rick Kaplan to Gary Epstein *et al.*, Docket No. 12-268 (Mar. 7, 2013).

Respectfully submitted,

**ABC TELEVISION AFFILIATES  
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